IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 7051 of 2007()

CR.108/2007 of J.M.F.C.,NEDUMKANDOM
CRIME.NO.43/02 OF THE EXCISE RANGE, UDUMBANCHOLA)

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PETITIONER/ACCUSED

BYJU, S/O. JOSEPH,
MURANGADU VEETTIL, PARATHODE VILLAGE,
UDUMBANCHOLA TALUK, IDUKKI DISTRICT.

BY ADV. SRI.S.DILEEP (KALLAR)
SRI.NAVEEN THOMAS

RESPONDENTS: COMPLAINANT & STATE

STATE OF KERALA, REP. BY
EXCISE INSPECTOR, UDUMBANCHOLA EXCISE RANGE,
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7051 OF 2007

Dated this the 14th day of November, 2007

ORDER

The petitioner is the sole accused in a crime registered under the Kerala Abkari Act. Investigation is now complete. The petitioner was not arrested or released on bail at the crime stage. Final report has already been filed. Cognizance has been taken. Committal proceedings has been registered before the learned Magistrate. As the petitioner has not entered appearance, a warrant of arrest has been issued by the learned Magistrate against the petitioner.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to appear before the learned Magistrate and seek regular bail. But he apprehends that his application for regular bail may not

be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge